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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 5, 1998

PETITION OF

DIECA COMMUNICATIONS, INC., d/b/a  
COVAD COMMUNICATIONS COMPANY

CASE NO. PUC980088

For arbitration of unresolved  
issues from interconnection  
negotiations with Bell  
Atlantic-Virginia, Inc.  
pursuant to § 252 of the  
Telecommunications Act of 1996

ORDER

On June 12, 1998, DIECA Communications, Inc., d/b/a/ Covad Communications Company ("Covad") filed a petition for arbitration of unresolved issues from interconnection negotiations with Bell Atlantic-Virginia, Inc. ("BA-VA") under § 252(b) of the Telecommunications Act of 1996 ("the Act"). In its petition, Covad asserted it had complied with all requirements of the Act and Commission Rules for seeking arbitration.

On July 7, 1998, the Commission issued a preliminary order docketing Covad's petition. That order provided for discovery and stated that all further proceedings shall be in compliance with the procedural rules and deadlines adopted in Case No. PUC960059 ("Rules"), unless altered by Commission Order. Also

on July 7, 1998, BA-VA filed a response in accordance with Rule C.2. and § 252(b)(3) of the Act.

Covad's petition cited three unresolved issues with BA-VA on which it requests arbitration by the Commission: (1) "Rates, Terms and Conditions of Cage-less Physical Collocation;" (2) "Availability of Incident-Based Performance Remedies;" and (3) "Placement of ATM Cross Connect Equipment in Collocations." Covad also sought to reserve its right to present for arbitration certain other issues described as "resolved but outstanding." Covad did not initially request a hearing or file testimony pursuant to Rule C.1 in its petition.

In its response, BA-VA stated its position on each of the issues raised by Covad. BA-VA did not request a hearing pursuant to Rule C.2., and did not include prefiled-testimony. However, it stated it is prepared to address the disputed issues in accordance with any schedule established for this proceeding.

Covad filed a reply to BA-VA's response on July 27, 1998, wherein it requested establishing a procedural schedule for filing testimony, setting an evidentiary hearing, and filing briefs. Although not requested in the parties' initial filings, we will grant Covad's subsequent request for a hearing. However, as the parties are aware, the Act mandates that we decide the unresolved issues presented in Covad's petition within nine months after BA-VA received Covad's request for interconnection. Based upon Covad's representations in its petition, it appears our decision would be due on or about

October 2, 1998. It will therefore be necessary for the parties to accelerate filing any testimony they want considered in this matter, and we will direct that the parties' testimony be filed simultaneously. We will further direct the parties to identify which "resolved but outstanding" issues, if any, they expect the Commission to decide. Should the parties desire to furnish legal arguments in addition to those presented in the filings made to date, they shall file such memoranda with their rebuttal testimony. Final arguments shall be by closing oral argument at the hearing in lieu of briefs.

NOW THE COMMISSION, having considered the pleadings and applicable law, is of the opinion that a hearing should be scheduled to receive evidence relevant to Covad's petition. Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to Rule 7:1 of the Commission's Rules of Practice and Procedure, a Hearing Examiner is appointed to conduct all further proceedings in this matter.

(2) A public hearing before a Hearing Examiner shall be held on September 1, 1998, commencing at 10:00 a.m. in the Commission's Second Floor Courtroom for the purpose of receiving evidence and oral argument relevant to Covad's petition for arbitration.

(3) On or before August 12, 1998, Covad and BA-VA shall file an original and fifteen (15) copies of prepared testimony and exhibits the parties intend to present at the September 1, 1998 hearing. This filing must identify which outstanding issues mentioned in the parties' pleadings, if any, the parties expect to be arbitrated by the Commission.

(4) On or before August 26, 1998, Covad and BA-VA shall file an original and fifteen (15) copies of any prepared testimony and exhibits the parties intend to present in rebuttal at the hearing on September 1, 1998.